

**Notice of Allowability**

Application No.

09/933,893

Applicant(s)

NIU ET AL.

Examiner

Art Unit

Guy J. Lamarre

2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/2/04 and 2/3/06.
2. ☒ The allowed claim(s) is/are 1-17.
3. ☒ The drawings filed on 02 July 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. .
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 2/3/06.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

  
Guy J. Lamarre, P.E.  
Primary Examiner  
2/6/2006

### Examiner's Amendment & Reasons For Allowance

1. This office action is in response to Applicants' Amendment of 7/2/04 and 2/3/06.
- 1.1 **Claims 1- 17** remain pending.
- 1.2 The objections and rejections of record are withdrawn in response to Applicants' Amendment.

### Examiner's Amendment

**2.0** An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with HENNESSEY, BRIAN on 2/3/06.

The following has been amended:

- 1) **Claim 1 last** line, after 'copy' inserted "wherein the inserted delay is a function of a fading period"
- 2) **Claim 17 last** line, after 'delay' inserted "wherein the inserted delay is a function of a fading period"

### Reasons For Allowance

2. **Claims 1-17** are allowable over the prior art.
- 2.1 The following is an Examiner's statement of reasons for the indication of allowable subject matter: the prior art is exemplified by **Tomcik et al.** (USPN 6567388), **Seo** (USPN 6581176).

For example, **Tomcik** discloses lost packet retransmission for data transfer wherein 'The multiple frames sent by mobile unit 10 in response to a NAK sent by BTS 12 may be a fixed number or a variable number. In the exemplary embodiment, a fixed number of frames equal to three is immediately

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*transmitted, although a greater or lesser number of frames could be transmitted in the alternative. In a variable repetition system, the number of frames re-transmitted upon receiving a NAK varies, depending on the channel quality, which can be measured by determining the NAK rate, discussed previously. In other embodiments, the channel quality may be determined by other criteria, such as the power level at which a mobile unit is transmitting, or a combination of criteria. As the channel quality improves, fewer frame retransmissions are theoretically necessary. As the channel quality degrades, more frame retransmissions should be necessary to ensure a successful retransmission.'*

**However Tomcik** does not teach or suggest the combination of claim elements including at least '*the inserted delay being a function of a fading period*' -(**Claims 1-14, 17**)- for the specific method for retransmission of lost packets in a fading channel described therein.

**Claims 15-16**, as implementing the specific method for retransmission of lost packets in a fading channel, are allowable over the prior art.

**2.2** Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### **Conclusion**

\* Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington, D.C. 20231

**or faxed to:** (571) 273-8300 for all formal communications.

Hand-delivered responses should be brought to Customer Services, 220 20<sup>th</sup> Street S., Crystal Plaza II, Lobby, Room 1B03, Arlington, VA 22202.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guy J. Lamarre, P.E., whose telephone number is (571) 272-3826. The examiner can normally be reached on Monday to Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert De Cady, can be reached at (571) 272-3819.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3609.

Information regarding the status of an application may also be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Guy J. Lamarre, P.E  
Primary Examiner  
2/6/2006

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